



**Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit No. WI-0029831-08-0
(WPDES Permit) Re-issued to Yorkville Sewer
Utility District

Case No. DNR-13-028

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit No. WI-0028291-09-0
(WPDES Permit) Re-issued to the Village of
Union Grove

Case No. DNR-13-054

NOTICE OF TELEPHONE PREHEARING CONFERENCE

On March 26, 2013, the Department of Natural Resources (DNR) reissued WPDES Permit No. WI-0029831-08-0 to the Yorkville Sewer Utility District.

On May 23, 2013, Attorney Paul G. Kent on behalf of the Yorkville Sewer Utility District filed a Petition for a Contested Case Hearing with the DNR to review the reasonableness of and necessity for certain terms in the permit.

By letter dated January 16, 2014, the DNR granted the request for hearing pursuant to Wis. Stat. §§ 283.63 and limited the hearing to the following issues:

1. Was it reasonable for the DNR to include a phosphorus water quality based effluent limit based on protection of downstream waters?
2. Is the compliance schedule for the phosphorus water quality based effluent limitation unreasonable?
3. Was it reasonable for the DNR to express the phosphorus water quality based effluent limitation as a six-month average concentration in the permit?

On June 24, 2013, the DNR reissued WPDES Permit No. WI-0029831-09-0 to the Village of Union Grove.

On August 23, 2013, Attorney Paul G. Kent on behalf of the Village of Union Grove filed a Petition for a Contested Case Hearing with the DNR to review the reasonableness of and necessity for certain terms in the permit.

By letter dated January 16, 2014, the DNR granted the request for hearing pursuant to Wis. Stat. §§ 283.63 and limited the hearing to the following issues:

1. Was it reasonable for the DNR to include a phosphorus water quality based effluent limit in the permit based on protection of downstream waters?
2. Was it reasonable for the DNR to include a final phosphorus water quality based effluent limitation in the permit if Union Grove intends to gather additional data to demonstrate that a variance to the phosphorus limitation is warranted?
3. Is the compliance schedule for the phosphorus water quality based effluent limitation unreasonable?
4. Was it reasonable for the DNR to express the phosphorus water quality based effluent limitation as a six-month average concentration in the permit?

On December 4, 2015, the Division of Hearings and Appeals received a Request for Hearing from the DNR regarding both Petitions.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will initiate a **telephone prehearing conference** on the above matters pursuant to Wis. Stat. §§ 227.42, 283.31, 283.63 and Wis. Admin. Code chs. NR 102 and 106 on **March 2, 2016, at 10:00 A.M.** Any person, organization or governmental unit wishing to become a party to this proceeding must appear at the conference in person or by an authorized representative. **To so participate, said persons must write to the Division of Hearings and Appeals, at least three days before the telephone prehearing conference, in care of the undersigned and indicate a phone number where they can be reached at the above mentioned time.** If necessary, the purpose of the prehearing conference will be to identify parties to the proceeding, to simplify the issues which may be contested at the hearing, establish a discovery schedule and set a date for hearing. No testimony will be heard at the prehearing conference; however, a date may be set for the hearing on the merits at the conference.

When the hearing is held it will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a) and the fair play provisions of Wis. Stat. ch. 227 will apply. The procedures relating to contested cases set forth in Wis. Admin. Code ch. NR. 2 will be followed. The procedure that will be followed at the public hearing will closely resemble that normally followed at a court hearing. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the public hearing.

The permits, petitions and other information relating to the petitioner are on file and may be inspected and copied at the offices of the Department of Natural Resources, 101 South

Webster Street, Madison, Wisconsin, between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, holidays excepted. Copies of documents on file for the applicant may be obtained by writing to the Department of Natural Resources, WPDES Permit Section, P.O. Box 7921, Madison, Wisconsin, 53707-7921. Reasonable costs will be charged for copies of all information excluding public notices and fact sheets.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-3865 with specific information on your request prior to the date of the scheduled prehearing or hearing.

Dated at Milwaukee, Wisconsin on January 19, 2016.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
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FAX: (414) 227-3818

By



ERIC D. DÉFORT
ADMINISTRATIVE LAW JUDGE